



## Married women and state pensions

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Before 1977, married women were able to elect to pay reduced National Insurance contributions in return for not accruing entitlement to contributory benefits such as the state pension in their own right. Instead, they would be able to claim a state pension at 60% of the basic rate on the basis of their husband's contributions when both had reached State Pension age. The option to pay reduced rate contributions was removed for marriages on or after 6 April 1977, but women who had already married were given the option of retaining it. However, some women who had paid reduced contributions were later shocked to find they had accrued low state pension entitlements, arguing that the position had not been clear to them. In response to debates on the issue, government ministers have tended to argue that information to explain the implications was made available to women both at the time the election was made and in subsequent information campaigns.

The current Government legislated in the [Pensions Act 2014](#) to introduce a single-tier State Pension for future pensioners from April 2016. The intention is that people should qualify for the single-tier pension on the basis of their own contribution record, so the current rules allowing individuals to derive entitlement on the basis their (former) spouse or civil partner's contributions will end. There will be specific transitional protection arrangements for women with a reduced rate election in the past 35 years. However, concerns have been raised about a small group of women, not covered by these arrangements, who did not build up their own NI record and had a legitimate expectation that they would be able to rely on their husband's contributions.

This note outlines the way in which married women can build entitlement to the State Pension and the circumstances in which they may be able to draw on the contributions of a spouse, or former spouse. It looks at the option until 1977 for married women to pay reduced rate National Insurance Contributions, and the effect of this.

The contribution conditions for the state pension are covered in more detail in Library Note SN 3111 [Pension contribution conditions](#). The rules on inheriting the Additional Pension (SERPS or S2P) entitlement of a former spouse are covered in SN 706 [Inherited SERPS](#).

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## 1 The current State Pension system

There are four categories of categories State Pension: Categories A, B, C and D. The **Category A** pension is that for which people generally qualify on the basis of their own contribution record. The Pension Service explains that the Category A pension has two tiers:

A Category A pension is a pension based on the National Insurance contributions a person has paid, been treated as having paid or been credited with, during their working life.

It has two parts:

- the **basic** State Pension – this depends on the number of qualifying years the person has built up in their working life;
- the **additional** State Pension – this depends on the earnings or deemed earnings during their working life since additional State Pension was introduced in April 1978.

To be entitled to a Category A pension, a person must have:

- reached State Pension age (see pages 18 to 21);
- claimed their State Pension (it is not paid automatically); and

- met the relevant contribution conditions.<sup>1</sup>

A person who is, or has been, married or in a civil partnership may be able to qualify for a basic State Pension, or an increase to their own basic State Pension, based on the National Insurance record of their spouse or civil partner (a **Category B** pension). These rules can provide a basic State Pension of up to £67.80 pw for a married person or civil partner and up to £113.10 pw for a widow, widower or surviving civil partner or a person who is divorced or whose civil partnership has been dissolved (2014/15 amounts).<sup>2</sup>

The **Category C** pension was introduced by the *National Insurance (Old Person's and Widows' Pensions and Attendance Allowance) Act 1970* to provide non-means-tested pensions to those who had reached State Pension age before the National Insurance scheme started in 1948 and had not been insured under the pre-1948 provisions.<sup>3</sup>

The **Category D** pension is non-contributory and payable when a person reaches the age of 80, satisfies certain residence contribution conditions, and is not already entitled to a state pension of at least £67.80 pw (2014/15 rates).<sup>4</sup> In February 2014, there were 44,520 Category D state pensioners.<sup>5</sup>

The relevant legislation is Part II of the [Social Security Contributions and Benefits Act 1992](#).

### **Category A**

The BSP is awarded to a person who has claimed it, has reached at least SPA and meets the qualifying conditions summarised below. The amount of BSP a person can get is based on the number of “qualifying years” a person has built up. A qualifying year is one in which a person has paid, been treated as having paid, or been credited with, enough NICs for it to count.

The amount of BSP a person can get is based on the number of “qualifying years” a person has built up. A person who reached SPA before 6 April 2010, needed 44 qualifying years (men) or 39 qualifying years (women) for a full BSP. They needed a minimum number of years (equal to at least 25% of working life, or ten years) to qualify for any BSP. They also needed to have actually paid contributions in at least one year. A person reaching SPA on or after 6 April 2010 needs 30 qualifying years to qualify for a full BSP. With fewer than 30 years, they qualify for a BSP at 1/30th of the full rate for each complete qualifying year they have built up.<sup>6</sup>

### **Category B**

Under current rules, a person who is, or has been, married or in a civil partnership may be able to qualify for a BSP or an increase to their own BSP based on the NI record of their

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<sup>1</sup> Pension Service, [A detailed guide to State Pensions for advisers and others](#), NP46 September 2008, p 9; [Social Security Contributions and Benefits Act 1992](#), section 44 and 45

<sup>2</sup> In the case divorce/dissolution, a Category A (substituted) pension may apply. For an overview of the rules, see Pension Service, [State Pensions – your guide](#), PM2, April 2012, page 24; Pension Service, [A detailed guide to State Pensions for advisers and others](#), NP46, September 2008, p44-53; [Social Security Contributions and Benefits Act 1992](#), sections 48 to 52

<sup>3</sup> [Bill 6-EN](#), para 90

<sup>4</sup> [Social Security Contributions and Benefits Act 1992](#), section 78

<sup>5</sup> DWP Tabulation tool

<sup>6</sup> [Social Security Contributions Act 1992](#), Schedule 3 (5) and (5A); Pension Service, [A detailed guide to State Pensions for advisers and others](#), NP46 September 2008

spouse or civil partner. (These arrangements initially applied only to women have since been extended to men and civil partners).<sup>7</sup>

The Category B pension can provide a BSP of up to £66 pw for a married person or civil partner and up to £113.10 pw for a widow, widower or surviving civil partner or a person who is divorced or whose civil partnership has been dissolved (2014/15 amounts).<sup>8</sup>

Different rules apply depending on their marital status:

- A person who is married or in a civil partnership may be able to claim a lower-rate BSP (a Category B(L) pension), payable at around 60% of the contributor's BSP entitlement (so £67.80 pw in 2014/15, if the contributor has a full BSP) provided both members of the couple have reached SPA.<sup>9</sup> The dependant can combine any amount they have accrued in their own right with the Category B pension to increase their entitlement (although the combined BSP cannot exceed £67.80 pw).<sup>10</sup>
- A widow(er) or surviving civil partner may be eligible for a BSP on the contributor's record (if bereaved when over SPA, or if under SPA, where widow's pension or widowed parent's allowance are in payment up to State Pension age) and to inherit additional State Pension (with the amount that can be inherited depending on when the contributor died and their date of birth).<sup>11</sup> This is known as a Category B pension for surviving spouses and civil partners. There is no entitlement if the survivor was under 45, either when bereaved or when they ceased to receive Child Benefit for the youngest child. In addition, they must not have remarried before reaching SPA.<sup>12</sup>
- A person who is divorced, or whose civil partnership has ended, can substitute their former spouse or civil partner's NI record (in part or in its entirety) up to the point of divorce/dissolution in order to qualify for the basic State Pension. This is referred to as a Category A pension (substituted).<sup>13</sup> This is not applicable where the dependant has subsequently remarried or entered into a civil partnership before reaching SPA. Substitution can also be used to provide a BSP for a surviving spouse or civil partner if there is no entitlement to a Category B pension or it does not include a BSP.<sup>14</sup>

An overview of the current rules can be found in:

- DWP, [State Pensions: Your guide](#) (March 2014), page 24-6; and
- DWP, [State Pension entitlements derived from a current or former spouse's or civil partner's national insurance contributions](#), 2013, Annex A

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<sup>7</sup> See Library Note SN 3035 [Pensions: civil partnerships and same sex marriages](#) (July 2013); Pension Service, [a detailed guide to State Pensions for advisers and others](#), September 2008, page 47

<sup>8</sup> DWP, [The single-tier pension: a simple foundation for saving](#), Cm 8528, January 2013, p93

<sup>9</sup> A rule requiring the husband to actually have claimed their State Pension was removed with effect from 6 April 2010 by the [Pensions Act 2007](#) (section 2)

<sup>10</sup> [Social Security Contributions and Benefits Act 1992](#), section 48A

<sup>11</sup> An overview of the rules in inherited SERPS is in DWP, [The single-tier pension: a simple foundation for saving](#), Cm 8528, January 2013, page 96-7; See also Pension Service, [Inheriting a state pension](#), SERPS L1, December 2007

<sup>12</sup> [Social Security Contributions and Benefits Act 1992](#), section 48B-51

<sup>13</sup> *Ibid* section 48A (4A)

<sup>14</sup> See also, DWP, [State Pension entitlements derived from a current or former spouse's or civil partner's national insurance contributions](#) (March 2013) - [Annex A](#).

## 1.1 Married woman's reduced rate election

### **Background**

HM Treasury's Tax Benefit Reference Manual explains that when the National Insurance system was introduced in 1948, married women were not expected to participate but could choose to pay either full or reduced rate NICs:

5.18 Married women could choose whether to pay the full contribution or a reduced payment, which only covered the industrial injuries condition and gave no entitlement to other contributory benefits (although married women could claim retirement pension based on their husband's contribution record).<sup>15</sup>

The "married woman's election" was abolished by the [Social Security Pensions Act 1975](#). This was as part of a package of reforms with the aim of providing "comparable treatment for men and women":

### **Married women and widows**

45 The scheme will provide comparable treatment for men and women and in particular will include the following important features:

- (i) Men and women with the same earnings record will receive the same pensions. Contributions under the new scheme will in general secure extra pension, including extra pension for wives and widows in addition to any pension on their husband's records.
- (ii) Pensions awarded under the new scheme will not be subject to the "half test", which is a rule of the present scheme whereby a married woman who has not paid contributions or been given credits in half the weeks between married and pension age cannot become entitled to a pension on her own contributions.
- (iii) Married women who are entitled to sickness or unemployment benefit will receive it at the same rate as other contributors. The discriminatory lower rate for married women will cease.
- (iv) Pension rights will be protected during periods spent at home looking after children or the old or sick.
- (v) Widowed mothers and most other widows will inherit the whole of the earnings-related pensions which their husbands had earned.
- (vi) A retired widow will be able to derive pension entitlement from her own earnings as well as those of her husband. A parallel provision will apply to men who become widowers in retirement.<sup>16</sup>

Regarding the abolition of the election for married women to pay reduced NICs, the 1974 White Paper said:

46. The Government are not prepared to perpetuate a system under which married women and some widows who go out to work have a choice between paying full contributions for inferior benefits and paying at a reduced rate which confers no benefit rights. In a scheme which provides earnings-related pensions in return for earnings-related contributions, working men and women should contribute on exactly the same basis, whether they are single or married. The existing married women's option should

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<sup>15</sup> HM Treasury, [Tax Benefit Reference Manual, 2009-10 Edition](#)

<sup>16</sup> [Better Pensions Fully Protected Against Inflation](#), September 1974, Cmnd 5713

therefore be abolished but the Government recognise that for large numbers of working wives who have opted out of full contributions under the present scheme, the complete and abrupt withdrawal of their right to pay at the reduced rate would cause a sharp reduction in their take-home pay. The question therefore is how to bring about equality in the new scheme in such a way that it serves the best interests of the present and future generations of married women and the community as a whole.

47. It is proposed that new entrants to the scheme should no longer have the right to opt out of paying full contributions and thereby deprive themselves of the valuable new benefit rights which are being made available to them.[...]<sup>17</sup>

The option for married women to pay reduced rate NICs was withdrawn from 1977. However, in recognition of the fact that its complete and abrupt withdrawal could cause a sharp reduction in take-home pay, it was phased-out for women who had already made an election. Married women and some widows with a reduced rate election in force before 5 April 1978 could retain the election, although it lapsed if they did not pay contributions in two successive tax years.<sup>18</sup>

In 1978/79, there were 4,230,000 with a continuing election. By 2000-01, this had fallen to 80,000:

#### NI Contributions

**Mr. Webb:** To ask the Secretary of State for Work and Pensions if he will make a statement on the ages of the women who (a) revoked and (b) did not revoke their reduced rate National Insurance contribution elections during 1978–79. [90625]

**Dawn Primarolo:** I have been asked to reply.

The ages of the women who (a) revoked and (b) did not revoke their reduced rate National Insurance contribution elections would be available only for the year requested at disproportionate cost. Available estimates based on a 3 per cent. sample of the National Insurance Recording System (NIRS2) are in the table. However, the reduction in the numbers paying at the reduced rate will be due only in part to those actively revoking their election.

Age during 1978-79 tax year	Revoked election (thousand)	Continuing election (thousand)
16-20	0.2	0.8
21-30	27	386
31-40	72	1,242
51-60	61	1,468
60 and over	42	817
Total	6	316
	208	4,230

In 1978–79 married women paying at the reduced rate made up some 45 per cent. of the total number of women paying National Insurance contributions. Latest published figures for 2000–01 indicate that this has fallen to around 1 per cent. It is estimated

<sup>17</sup> Ibid; See also paragraph 44 on the introduction of Home Responsibilities Protection

<sup>18</sup> HM Treasury, *Tax Benefit Reference Manual, 2009-10 Edition*, July 2009

that the current number of married women paying at the reduced rate is around 80,000.<sup>19</sup>

In April 2011, there were 3,000 women still paying reduced rate contributions.<sup>20</sup>

### **Effect of paying reduced rate NICs**

The effects of paying reduced rates of National Insurance were summarised in a leaflet published by the Inland Revenue in 2004:

Reduced rate Class 1 contributions do not count towards entitlement to any of the following contributory benefits:

- Maternity Allowance
- Jobseeker's Allowance
- Incapacity Benefit
- State Pension
- Second State Pension
- Bereavement Benefits

But you may be entitled to:

- a State Pension of 60% of your husband's entitlement based on his contribution record. But you cannot get this until:
  - your husband reaches age 65 and claims his State Pension, and
  - you reach State Pension age
- SSP, SMP, SAP, SPP and Maternity Allowance, as these are based on the level of your earnings

If you have reduced liability you:

- are not entitled to National Insurance credits ... when, for instance, you are:
  - unemployed and sign on at the Jobcentre, or
  - incapable of work because of sickness or disability
- will not qualify for Home Responsibilities Protection ...
- cannot pay Class 3 contributions ...

### **When does my right to reduced liability end?**

Your right to reduced liability will end:

- if you divorce
- if your marriage is annulled
- if, since 6 April 1978, there are two consecutive tax years during which you:
  - have not paid, or treated as having paid, Class 1 contributions, or
  - have not been self-employed
- at the end of the tax year in which your widow's bereavement benefit ends
- if you choose to cancel it ...<sup>21</sup>

As this explains, one consequence is that a person cannot elect to pay [class 3 voluntary National Insurance contributions](#) (NICs) to fill gaps in their NI record if they are a married woman or widow and opted to pay reduced rate NICs for the whole of that tax year.<sup>22</sup>

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<sup>19</sup> HC Deb 10 February 2003, cc 523W-524W

<sup>20</sup> DWP tabulation tool

<sup>21</sup> Inland Revenue, *National Insurance contributions for women with reduced elections*, National Insurance Contributions Series CA 13, January 2004; *Social Security (Contributions) Regulations 2001 (SI 2001 No. 1004)*

<sup>22</sup> Gov.UK, [Voluntary National Insurance](#); HMRC – [when you can't pay class 3 voluntary contributions](#)

Information about the effect of [reduced rate National Insurance for married women](#) of opting to pay at a reduced rate is on the HMRC website.

### **Debate**

Some women who paid reduced rate elections were later shocked when they were told that they had low state pension entitlements. The BBC reported the following case in 2002:

On 19 February 2003, Margaret Watts will start collecting her state pension. It will not be a happy occasion. After years of contributions, including during 33 years as a nurse in the NHS, she has returned to work.

She is one of many women in their 60s and 70s who are being forced to do the same. In 1992, she applied to the government for a pensions forecast. "It was disbelief at first," Mrs Watts tells BBC News Online. "I just couldn't believe that I had worked all those years and that I was all I was getting for it. Then it turned to anger." The pensions forecast told her that she would receive a pension of 7p a week, from contributions to a graduated pension, an old type of additional state pension.

Mrs Watts is one of millions of women who paid a reduced rate of National Insurance called the married woman's stamp, between 1948 and 1978. [...]

But many women, including Mrs Watts, cannot remember agreeing to give away their rights to a pension. "Many of us cannot remember signing the form. Assuming that we did, in 1977 when it changed, many of us phoned the local DSS and were told not to worry, we would get a pension from our husband's contributions. Many of the women in a similar position to Mrs Watts paid full contributions until they got married, but they were told to switch as soon as they had tied the knot. If someone said we were going to pay a married woman's rate, it wouldn't enter your head there was a choice. It was different in those days," she says.<sup>23</sup>

In response to questions on the issue, Ministers have said that women who elected reduced liability had to sign a statement saying they had read and understood a leaflet explaining the consequences:

### **Pensions (Married Women)**

Annabelle Ewing: To ask the Secretary of State for Work and Pensions what plans his Department has to review the operation of pension entitlement for married women who have paid national insurance contributions at the reduced rate where no official advice was given as to the consequences of exercising this option. [76817]

Mr. McCartney: In order to pay the reduced rate contribution, married women had to complete a form CF9 which was attached to leaflet NI1 (National Insurance for married women). This leaflet explained the consequences of the choice. In particular, it explained that the choice could affect future entitlement to benefit, including Retirement Pension. In addition, they had to sign a statement that they had read and understood the leaflet.

The option to pay the reduced rate was withdrawn in 1977 but those who were already paying the reduced rate were allowed to continue to do so with the option to revoke it at any time. This was widely publicised. Following the restructuring of National Insurance contributions in 1989, the Department again ran a publicity campaign to inform married women paying the reduced rate contribution that they could be paying more in reduced rate contributions than if they paid the standard rate.

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<sup>23</sup> [BBC news, 'A pension of 7 pence a week', 13 December 2002](#)

This campaign also reminded them that they could revoke their option to pay the reduced rate. In October 2000, they were again advised, following changes to the structure of the National Insurance scheme, to reconsider their choice to pay the reduced rate contribution.

We therefore have no plans to review the position.<sup>24</sup>

When the *Pensions Bill 2003/04* was before Parliament the then Liberal Democrat spokesperson, Steve Webb, argued that many women who had opted for the reduced-rate contribution had not made an “informed choice” as we would now understand it:

The culture was different then. Often women married very young, so many of the women who switched over to the married woman's rate were teenagers or in their early 20s. One woman who wrote a letter to me explained that she came back from her honeymoon, at the age of about 19, and the man from payroll came round and said, "Did you have a nice honeymoon, love? Sign here. You're a married woman. You pay the married woman's rate." [...] Before some women signed the form, they asked for information and advice. They rang up the then Department of Health and Social Security—or whatever it was called at the time—and quite often they were given duff advice. Can they prove it? Well, of course they cannot: it was a phone call that took place 30 years ago. They cannot prove it, but I am convinced that it happened. They would ring up and they would be told, "You don't need to pay national insurance, love, because you'll get a pension off your husband." It is true that when their husband reaches state pension age, they are entitled to a 60 per cent. pension on his contributions. However, what was seldom, if ever, explained to them was that they do not get a penny until their husband hits 65.<sup>25</sup>

He argued that they should be given the option of paying voluntary class 3 NI contributions to increase their entitlement:

People can pay class 3 voluntary national insurance. In some cases, contributions can be backdated several years to fill gaps in their national insurance contribution record, but married woman on the reduced stamp cannot make such payments for any year in which the married woman's election was in operation.[...] We are not asking for something for nothing but something for something; for example, the chance to top up contributions.<sup>26</sup>

The then Pensions Minister, the late Malcolm Wicks, responded that women who opted for reduced rate contributions were required to give written notice of that decision on the form attached to leaflet N11, which clearly described the consequences of that decision. However, he promised to consider the suggestion that there should be a mechanism for paying back contributions to improve their record:

Married women who opted to pay reduced-rate contributions made that choice, and they were required to give written notice of that decision on the form attached to leaflet N11. The leaflet clearly described the consequences of that decision and the women were required to sign a declaration that they had read and understood that leaflet. In human terms, that does not mean that they did understand it, but those women who chose to pay reduced-rate national insurance signed it and were each issued with a certificate for their employer. That was the process. Employers were not allowed to

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<sup>24</sup> [HC Deb 24 October 2002 c 489W](#); See, for example: [DHSS leaflet NI 1, National insurance guidance for married women, January 1977](#); [DSS, An important message to women who pay reduced rate NI contributions, 1989](#); [Inland Revenue, Important message for women who pay reduced rate NI contribution, October 2000](#)

<sup>25</sup> [SC Deb 18 March 2004 c233 \[intranet only\]](#)

<sup>26</sup> *Ibid*, c235

deduct reduced-rate contributions without that certificate. Arguably, that process should have meant that the women knew what they were doing, although I do not say that that would always have been the case. (...)

The story becomes more complicated—... In 1989, changes to the national insurance structure gave rise to a situation in which some low-earning women who were paying the reduced rate might have had to pay more national insurance contributions than if they were paying the standard rate, because of the low-income proviso. However, mailshots were sent in August 1989, before the national insurance structure was changed, advising women that if their earnings were low they might be better off paying standard-rate national insurance contributions. There are several other situations concerning the issue of choice in which information was available.

The situation is complicated. I do not mean this in a frivolous way, but hindsight is a wonderful thing when considering the choices that people made many years ago when social and familial circumstances were rather different from what they are now. When it comes to those married women who made informed choices, there is a serious issue of equity. We must be careful not to generalise. To imply that all women did not know what they were doing is a bit of a slur on the many women who did know what they were doing. Many women consciously decided to pay the married woman's stamp knowing full well what that meant—I happen to know one such woman very well. To imply that no one knew what they were doing is an unfortunate generalisation. Some people decided to pay the reduced rate, and some, who were fully conscious of the implications, thought, "No, I'll pay the full contribution because I want to build up my own contributions." It would be difficult to address their sense of inequity if such changes were made.

Having said that, the question raised by the new clause—as to why women cannot now have the opportunity to pay back national insurance contributions—is a fair one, which I have reflected on. I cannot accept the hon. Gentleman's new clause today, but my Department will consider it further. I am not making any promises about the outcome of that reflection, but these are no mere words: we will reflect on whether there is a case for enabling women to pay back contributions, and we will consider the implications of that. I shall return to the House when we have reflected.<sup>27</sup>

However, the regulations preventing women from paying class 3 NICs for a period when they had a reduced NI liability are still in place.<sup>28</sup>

The current Government has also pointed to major publicity campaigns on the issue. On 16 March 2011, Commercial Secretary to the Treasury, Lord Sassoon said:

Married women who paid national insurance contributions at the reduced rate are a unique group. They elected to pay reduced rate contributions in return for reduced benefit entitlement; these women can revoke their reduced rate election and pay contributions at the standard rate at any time they choose. It is not the case that women who opted to pay reduced rate contributions have received nothing in the way of benefits, in case there is any suggestion of that. Before 1975, such women who were employed were eligible for a full range of industrial injury benefits and, later, they became eligible for statutory sick pay and maternity pay. They can also receive a pension of up to 60 per cent of basic state pension based on their husband's contributions when he reaches pension age. There have also been three major publicity campaigns about the married women's option—the first in the late 1970s, the second in the late 1980s and the third in October 2000—to advise them of changes that

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<sup>27</sup> [SC Deb \(B\) 18 March 2004, cc 250-251](#)

<sup>28</sup> [Social Security \(Contributions\) Regulations 2001 \(SI 2001 No. 1004\)](#), regulation 132

may affect them. They also benefit from the increase in the primary threshold that is now coming in. There are around 5,000 to 10,000 married women who still have in place a reduced rate election; the numbers are falling because only women married or widowed before 1977 are entitled to pay at the reduced rate. I hope that I shall not be accused again by the noble Lord of piling Pelion on Ossa, but I thought it worth going through the position as it is and confirming that in the generality the Government take their responsibilities very seriously.<sup>29</sup>

The current Government has introduced specific transitional protection arrangements to protect the right of people with a reduced rate election in the last 35 years to derive a state pension entitlement on the basis of their husband's contributions when the single-tier State Pension is introduced in April 2016 (see section 2 below).

### **Common questions**

*Why doesn't a married woman receive a Category B Retirement Pension on top of her Category A Retirement Pension?*

This is because of the longstanding overlapping benefits rule which prevents duplication of payment of national insurance benefits for the same purpose over the same period.<sup>30</sup> In the past the Department of Social Security has provided the Library with the following explanation of this policy as it applies to married women:

A married woman can qualify for a pension by paying enough full rate contributions herself or by using her husband's contributions. However, she is not paid two pensions. One of the principles of the Social Security system is that there is no duplicate payment of benefits provided for a person's maintenance, and the scheme is financed on that basis. Instead she is able to add the whole or part of the basic pension payable on her husband's contributions, to the basic pension on her own, subject to the total not exceeding the maximum rate payable to a married woman on her husband's contributions...In percentage terms this married women's pension is roughly 60 per cent of the standard rate... If the pension which a married woman has earned on her own contributions exceeds that maximum then she does of course receive the higher amount.

The National Insurance scheme runs on a pay as you go basis; today's contributors pay for today's, benefits. Married men pay the same rate of contributions as single men. The pension paid to a married woman on her husband's contributions is therefore subsidised by the contributions of single people. We do not think it would be right to extend this subsidy even further, and pay all married women a pension on their husband's contributions regardless of what pension they themselves had earned. However, the contributions which a married woman pays provides protection of benefits during sickness or unemployment for example.

*Does this mean her full-rate contributions are wasted?*

Some married women feel that where full-rate NICs have been paid that result in a Category A pension which is less than a Category B pension, these NICs have been wasted. This is because they will receive the same pension as a married woman who paid reduced rate NICs, or a married woman who paid no NICs.

However, there are a number of potential advantages to paying full-rate contributions. For example, an individual who qualifies for a Category A pension on the basis of their own contributions can claim from the time they reach State Pension age, whereas for a Category

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<sup>29</sup> [HL Deb 16 March 2011 c64GC](#)

<sup>30</sup> [Social Security \(Overlapping Benefits\) Regulations 1979 SI 1979/597](#)

B pension both partners need to have reached State Pension age. Additional drawbacks of paying reduced rate contributions included the fact that reduced rate contributions did not count towards certain contributory benefits such as Jobseekers' Allowance, Incapacity Benefits and the State Second Pension. Furthermore, a person with a reduced rate election was not entitled to certain NI credits, for instance when they were unemployed or incapable of work and they were not covered by Home Responsibilities Protection (introduced in 1978 to protect the state pension entitlement of people with caring responsibilities). Voluntary class 3 NI contributions cannot be paid during a period in respect of they had a reduced rate election.<sup>31</sup>

*Is it possible for a married woman to have paid higher reduced rate NICs than women paying full-rate NICs?*

In April 1975 (when flat rate contributions were replaced by earnings-related contributions), the reduced rate was 2% of earnings up to the upper limit of £69 a week compared with a full rate of 5.5%. People with earnings below £11 a week did not pay any contributions.<sup>32</sup> The current reduced rate is 5.85% (of earnings between £149 and £797 per week) compared with a full rate of 12%. An additional 2 per cent is payable for earnings above the UEL.<sup>33</sup> The amount an individual pays will depend on the amount they earn, but at any given level of earnings the married woman with reduced liability pays less than the woman with full liability.

However, at one stage in the past it was possible for a married woman to pay more by making reduced rate contributions than if she paid full contributions. This applied between October 1989 and April 1999 when there was a tiered structure for NICs someone earning over the lower earnings limit paid 2% on earnings up to the lower earnings limit and 9% (from April 1994, 10%) on the balance up to the upper earnings limit. A married woman paying the reduced rate and earning over the lower earnings limit paid 3.5% on all earnings. A married woman earning just over the lower earnings limit could therefore pay more through a reduced contribution than through a full one.

This situation changed in April 1999 when NICs ceased to be payable on earnings below the lower limit. It was estimated that about 60,000 married women with reduced liability might have been in a position to pay more than their counterparts with full liability:

**Mr. Steve Webb (Northavon):** If he will estimate the number of married women who were paying national insurance in 1990-91 at the reduced rate for married women in circumstances where they would have paid less national insurance had they paid the full rate of national insurance contributions.

**The Paymaster General (Dawn Primarolo):** In 1990-91, under the previous Government, about 60,000 married women could have paid more national insurance contributions at the reduced rate than if they had paid at the full rate. With effect from April 1999, the Government ended that situation.<sup>34</sup>

The Government ran a publicity campaign in 1989 warning women that they might be better off giving up the reduced rate option:

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<sup>31</sup> Inland Revenue, *National Insurance contributions for women with reduced elections*, National Insurance Contributions Series CA 13, January 2004

<sup>32</sup> DHSS, *Contribution and benefit changes for married women from 6<sup>th</sup> April 1975*, NI 1C November 1974, p 2 [link to Parliamentary Intranet]

<sup>33</sup> Gov.UK, [Rates and allowances: National Insurance contributions](#)

<sup>34</sup> [HC Deb 22 June 2000 c 447](#)

**Mr. Webb:** To ask the Secretary of State for Work and Pensions how many letters were issued to married women who had a valid election to pay national insurance contributions at the reduced rate in each of the large-scale publicity campaigns run by his Department in (a) 1977, (b) 1989 and (c) 2000; and if he will list the criteria that were used to identify those women who were sent a letter. [90624]

**Mr. McCartney:** In 1977, no letters were issued to married women who had a valid election to pay National Insurance contributions at the reduced rate. Women were targeted via their employers, and flyers were enclosed with their payslips alerting them to the changes.

In 1989, the publicity campaign was aimed at some 400,000 women. They were sent letters to inform them that they could be better off paying standard rate National Insurance contributions because of the proposed change to the National Insurance structure. The criteria used to select these women were that their National Insurance account showed an open reduced rate election, they had paid reduced rate National Insurance contributions in the 1986–87 and/or 1987–88 tax years and that they were generally low earners in which case the standard rate contributions would be less than the reduced rate.

In 2000, nearly 253,000 letters were issued. These women were identified by scanning the National Insurance Record System computer. All those who had a valid election to pay the reduced rate were sent a letter.<sup>35</sup>

## 2 Single-tier State Pension

The Government legislated in part 1 of the *Pensions Act 2014* to introduce a single-tier State Pension for future pensioners from 6 April 2016, replacing the existing two tiers: the flat-rate basic State Pension (BSP) and additional State Pension which is partly earnings-related. People who have already reached State Pension age (SPA) at the date of change would continue to get their State Pension in line with existing rules. The Government has said the single tier will be set above the level of the Pension Credit standard minimum guarantee (£148.35 pw for a single person in 2014/15). 35 qualifying years (of National Insurance contributions or credits) would be needed for individuals to receive the full amount. Those with fewer than 35 qualifying years would receive a pro-rata amount, subject to them having at least ten qualifying years.<sup>36</sup>

### 2.1 Transitional arrangements

The Government intends that people should qualify for the single-tier on the basis of their own contributions and says that in steady state there will be “no rationale for allowing people to “inherit or derive state pension income based on the National Insurance record of their spouse or civil partner.” Where both dependant (i.e. the person relying on using their spouse or civil partner’s record), and contributor (who will be their spouse or civil partner) reach SPA before the implementation of the reforms, then the current rules continue to apply. In addition, there will be “transitional protection to cover a variety of circumstances where the Government believes it is right to recognise contributions made prior to the implementation of the single tier pension.”<sup>37</sup> These arrangements depend on when dependant and contributor reach SPA in relation to the implementation of the single-tier State Pension on 6 April 2016:

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<sup>35</sup> [HC Deb 24 March 2003 c 106W](#)

<sup>36</sup> For more detail, see Library Research Paper RP 13/37 [Pensions Bill](#)

<sup>37</sup> DWP, *State Pension entitlements derived from a current or former spouse’s or civil partner’s national insurance contributions* (March 2013); DWP, *The single-tier pension: a simple foundation for saving*, Cm8528, January 2013, Annex 3D

- Where the dependant reaches SPA in the current system and contributor reaches SPA, or dies or divorces under SPA, in the single-tier, the dependant will continue to be able to derive an entitlement from the contributor's record, based on the contributions he or she made up to the introduction of the single-tier.<sup>38</sup>
- Where the dependant reaches SPA in the single-tier and contributor reaches SPA or dies in the current system, the dependant will not be able to derive an entitlement to the BSP (unless covered by the special transitional arrangements for women with an election to pay reduced-rate NICs). They may be able to inherit some additional State Pension.<sup>39</sup>
- Where the dependant reaches SPA in the single-tier and the contributor reaches SPA (or dies or divorces under SPA) in the single-tier, individuals will not be able to derive entitlement to the BSP (unless covered by the special transitional arrangements for women with an election to pay reduced-rate NICs). If the contributor has a "protected payment" the dependant may be able to inherit 50% of it.<sup>40</sup>

There are specific transitional arrangements for married women who in the past elected to pay reduced rate NICs (which did not count towards State Pension entitlement). The White Paper explained:

33. Fully removing the potential to derive basic State Pension from a spouse under the single-tier pension would disadvantage women who elected to pay reduced rate National Insurance contributions. They may have few or no qualifying years as a result of their election, which would leave them with potentially no state pension under single-tier rules despite a long history of paying National Insurance contributions and engaging with the system.

34. The Government therefore intends to make provision for married women and widows who paid these reduced rate contributions. Where a valid election existed at any point in the 35 years before State Pension age, they will be able to access a single-tier pension based on their own contributions to the point at which the single-tier pension is implemented. This will include an amount equivalent to the full rate of the 'married woman's' lower-rate basic pension or, if widowed or divorced, the full rate of the basic State Pension. If they would also qualify for a single-tier pension based just on their own contributions, they will receive the higher of the two.<sup>41</sup>

The Government expects these arrangements to protect around 10,000 women.<sup>42</sup>

Part 2 of Schedule 12 of the *Pensions Act 2014* provides for the restriction of the right to claim a State Pension based on the contribution record of a (former) spouse or civil partner, depending on when the dependent and contributor reach SPA in relation to the implementation of the single-tier state pension in April 2016. Sections 11 and 12 and Schedules 6 and 7 would provide for the transitional protection arrangements for a married woman with a "reduced rate election" in force at the start of the final 35 tax years before she reached SPA.

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<sup>38</sup> DWP, *State Pension entitlements derived from a current or former spouse's or civil partner's national insurance contributions*, March 2013. Scenario 1, page 8

<sup>39</sup> *Ibid*; Scenario 2, page 12

<sup>40</sup> *Ibid*; Scenario 3, page 15

<sup>41</sup> DWP, *The single-tier pension: a simple foundation for saving*, Cm 8528, January 2013, Annex 3

<sup>42</sup> DWP, *The single-tier pension and derived entitlement to basic State Pension*, December 2013

In January 2013, DWP estimated that in 2020 fewer than 30,000 women would be affected by the loss of derived entitlement to a basic State Pension. In December 2013, it published analysis looking at whether people would be getting a smaller state pension at any point in their retirement.<sup>43</sup> It found that some 290,000 people would be affected at some point up to 2030.<sup>44</sup>

## 2.2 Comment

Age UK expressed concern that there would be some women who had expected to rely on their husband's contributions but were not covered by the transitional protection arrangements. It called for:

[...] transitional provisions to ensure that there is protection for everyone who has a legitimate expectation of receiving a pension based on their partner's contributions and who will not have sufficient years between implementation and their state pension age to be able to accrue a single-tier pension of at least the same amount.<sup>45</sup>

In his evidence to the Work and Pensions Committee, the Pensions Minister said:

By 2020, we think that less than 5% of single-tier pensioners-women, female pensioners-will get less because we have got rid of this Category B. That is about 30,000 women. Cumulatively, by 2020, there will be about 30,000 women who will get less than they would have got, because we got rid of what are called Category B pensions. As I say, they will be people who do not even have 15 years.<sup>46</sup>

The Committee recommended that the Government should give further consideration to finding a solution for a small group of women close to SPA:

We believe that it should be possible to find a solution for another small group of women: those who did not build up their own NI record because they had a legitimate expectation that they would be able to rely on their husband's contributions to give them entitlement to a Basic State Pension. One option might be that women in this position who are within 15 years of State Pension Age should be able to retain this right. We recommend that the Government assesses and publishes the cost of providing this option for the relatively small number of women affected. We believe that, for those further from retirement, there is sufficient time for them to plan on the basis of the new rules.<sup>47</sup>

In response, the Government explained the reasons for its position, as follows:

The provision for derived entitlement dates back to the 1940s, when men worked and women stayed at home. This has not resembled the structure of our society for many decades and there is no longer a substantial need for these provisions: by 2020, fewer than 30,000 women in GB will receive a notionally lower State Pension outcome because of the removal of derived entitlement. The Pension Credit Guarantee Credit will remain in place as a safety net for those living in GB.

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<sup>43</sup> Ibid. This included pensioners who were still married in 2020 and whose single-tier pension is between the 'married woman's pension' (£66 pw in 2013/14) and the 'widows pension' (£110.15 pw) and who therefore might be entitled to a higher pension under the current system once widowed

<sup>44</sup> [HL Deb 18 December 2013 c 341](#)

<sup>45</sup> [Age UK, Second reading briefing – Pensions Bill, June 2013](#); Work and Pensions Committee, [The Single-tier State Pension: Part 1 of the draft Pensions Bill](#), Fifth Report of 2012-13, HC 1000, 4 April 2013, Q34

<sup>46</sup> Work and Pensions Committee, [The Single-tier State Pension: Part 1 of the draft Pensions Bill](#), Fifth Report of 2012-13, HC 1000, 4 April 2013, Q179

<sup>47</sup> [Ibid, para 155](#)

Additionally, the derived entitlement arrangements have evolved over time so that they now result in outcomes not intended under the original policy, as envisaged in the 1940s, to support dependent spouses. Provided a person has at least one qualifying year of UK NI contributions or credits, a State Pension (including any derivable entitlement) is payable anywhere in the world, enabling the dependents of UK contributors to benefit, even if they have never been to the UK. The factors resulting in the decline in the domestic demand for derived entitlement do not apply in overseas cases, as demonstrated by the fact that among married men (who have been able to qualify for the married person's pension only since 2010), 70 per cent of the caseload with derived entitlement resides overseas.<sup>48</sup>

### ***Debate in the Commons***

At Public Bill Committee stage in the House of Commons, Shadow Pensions Minister, Gregg McClymont tabled an amendment that would require the Government to conduct a review to determine the costs and benefits of permitting women within 15 years of SPA to retain the right to derive State Pension entitlement on the basis of their (former) spouse's contribution record:

In relation to women without a national insurance contribution record who relied on a husband's national insurance contributions and would under existing arrangements have accrued a benefit based on such spousal contributions, the Government shall conduct a review to determine the costs and benefits of permitting women within 15 years of state pension age as at 6 April 2016 to retain their accrued rights. Such a review shall be conducted within six months of Royal Assent of this Act and a report thereof laid before Parliament.<sup>49</sup>

Sheila Gilmore said that when people had made plans based on a reasonable expectation of being able to use their husband's contributions, it was not fair to remove this right from them abruptly. Some might have been eligible for NI credits but not claimed them, for example.<sup>50</sup> The Minister responded that:

There is an issue about legitimate expectations, which is why the rather complex transitional procedures that we have put in place provide protection for the vast majority of people. I will reiterate the numbers we think we are talking about. We have the figures for men, which are obviously much smaller, but we think that by 2020, of all the women who become single-tier pensioners over that five-year period, roughly 5% will lose out—that is the 30,000 number—from the non-availability not just of a derived pension as a widow, but a derived pension as a married woman whose husband is still alive. All of that together is less than 5% of the people we are talking about.

Of course, we could roll on every feature of the old system into the new system for another 15 years. At the same time as we are being asked to do that, we are also being asked to give clear communications. We are trying to bring about a reform that enables people to plan for their retirement, to know where they stand, to know what they will get, and there is a trade-off here.<sup>51</sup>

Some of those losers would be eligible for Guarantee Credit.<sup>52</sup> He said another review would delay implementation. Furthermore:

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<sup>48</sup> DWP, *Government Response to the Fifth report of the House of Commons Work and Pensions Select Committee, Session 2012-13, into Part 1 of the draft Pensions Bill*, Cm 8620, May 2013

<sup>49</sup> *PBC Deb 2 July 2013 c175*

<sup>50</sup> *Ibid c182*

<sup>51</sup> *Ibid c184*

<sup>52</sup> *Ibid c85*

It would create new cliff edges, bring in only women and not men, and greatly complicate the transition for a relatively small number of people for whom other provisions are in place – the guarantee credit, the opportunity to pay voluntary contributions and so on.<sup>53</sup>

Later in the debate, the Minister explained the transitional protection arrangements for women with a valid reduced rate election in force at the start of the final 35 tax years before she reached SPA:

The married woman's stamp had its origins in the post-second world war national insurance system, whereby women could pay full national insurance and build up a full pension, but the presumption was that a married woman did not do so and that she paid a reduced rate of national insurance. That meant that she did not build up a state pension in her own right, but she did build up entitlement to a pension based on her husband's contributions when he reached state pension age, typically of a 60% pension as a married woman or of a 100% widow's pension when he died.[...]

This is a very clear case of where the state entered into a contract with individuals and a deal was done. The deal was, "You put less national insurance into the system, you don't build up your own pension, but you do get something on your husband's rights." We just felt that, although in a sense the option to pay the married woman's stamp for new people ended in the late 1970s, there was one heck of a legacy of all this. Lots of people even now are coming up to pension age who, at some point, have paid the married woman's stamp.

Clause 11 relates to the people who have got something in their own right; clause 12 relates to the married women who paid the married woman's stamp who have got nothing at all. What these clauses and schedules do is essentially to try to replicate what those people would have got. In a sense, it is cleaner, because if they have got nothing at all we just pay them what they would have got—the 60%, or the 100% in due course. If they have got something, we have to mesh together the something that they have got with the extra amount that we will give them, which is why we have done them separately. However, as I think the Committee would consider was proper, what we have basically said is, "If, at your state pension age, you had a live election to pay the married woman's stamp at any point in the preceding 35 years [...] you're in this concessionary basis and essentially you will get the pension you would have got when your husband reached state pension age, because you are on his record as a married woman, and in due course if he predeceases you, you get the basic widow's pension that you would have got."<sup>54</sup>

Gregg McClymont said it made sense to proceed as the Government suggested.<sup>55</sup>

### ***Debate in the Lords***

At Committee Stage in the House of Lords, Labour Peer Baroness Hollis of Heigham argued that protection was needed for those within 15 years of pension age who would have received a higher pension based on their (former) spouse or civil partner's contributions:

The Government have rightly helped 10,000 women—it is a diminishing number—who paid a reduced stamp and have put them effectively on to the equivalent of the former 60% dependant pension. At the same time, they are taking that same pension from about 5,000 married women who would otherwise qualify for it each year. This amendment calls for a transitional period of 15 years, as urged by the Select

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<sup>53</sup> Ibid c187

<sup>54</sup> Ibid c191

<sup>55</sup> Ibid c192

Committee on Work and Pensions on this part of the Bill, having taken a considerable amount of evidence, including some very effective evidence from Age Concern.

This amendment seeks to help women, not many of them, who have, for one reason or another, lived their lives among an older—shall we call it, although I do not mean this to be patronising at all, *Daily Mail* model—without any expectation that the Government were going to change the rules around them. [...]

We phased in the rise in people's pension age over a decade. We are scrapping the pension that they might have drawn at pension age, effectively overnight. I do not think that is fair. If we feel the need to give adequate warning when raising the state pension age, as we did, we should provide adequate warning and therefore transitional arrangements for the most obvious group of real, not notional, losers. It is not difficult. We have the precedent of the reduced married women's stamp, which we should follow.<sup>56</sup>

Lord Freud responded by laying out the Government's argument for removing derived entitlement by reference for the criteria the single-tier: "fairness, simplicity and sustainability". It believed that fairness meant:

[...] means ensuring an adequate state pension for people who have contributed to the system. That is why we are recycling the savings from aspects of the current system being abolished, including derived entitlement, to give a boost to individuals who have historically been excluded from additional state pension, such as carers, the self-employed and the low-paid.<sup>57</sup>

The Government estimated that to continue running the basic pension derived entitlement provisions for people reaching State Pension age up to 2030-31 would cost around £200 million per annum in the 2030s for Great Britain. If, as the Government believed, it was not possible to restrict transitional protection to those ordinarily resident in the UK, there would be additional costs in respect of those overseas.<sup>58</sup>

Lord Freud said introducing transitional provision for this group would introduce complexity, for example, requiring the Government to tell people about their entitlement under the current system as a married person and how this might change if they were widowed.<sup>59</sup> He concluded by saying:

I hope that by now it is clear why we have not put in place transitional arrangements and why we have no intention to undertake a review to this effect. We have, however, put in place some protection, specifically to ensure that women who had paid the reduced rate election within 35 years of pension age will get roughly what they thought they would receive. Putting in place protection for these individuals is right: they have clearly participated in the labour market and have contributed. The difference between them and the wider group of people who would have relied on derived entitlement is that those people made an explicit deal with the state.<sup>60</sup>

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<sup>56</sup> [HL Deb 18 December 2013 c334](#)

<sup>57</sup> [Ibid c340](#)

<sup>58</sup> [Ibid c340](#)

<sup>59</sup> [Ibid c341](#)

<sup>60</sup> [Ibid c342](#)

Baroness Hollis described his position as “harsh and unfair”. The women affected were going to lose their entitlement to a derived pension virtually overnight, with limited time to change their situation.<sup>61</sup>

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<sup>61</sup> Ibid c351